

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on February 20, 2003 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jane Hayden, Committee Secretary
Mary Vandembosch, Legislative Branch
Rebecca Sattler, Transcription of Minutes

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 221, SJR 16, SB 336, SB 403,
2/17/2003

Executive Action: SB 221, Do Pass;
SJR 16, Do Pass As Amended;
SB 336, Do Pass;
SB 179, Indefinitely Postpone
SB 251, Indefinitely Postpone

HEARING ON SB 221

* Please note: the tape for this hearing did not record.

Sponsor: SEN. SAM KITZENBERG, SD 48, Glasgow

Opening Statement by Sponsor:

SEN. KITZENBERG distributed letters from Bill Wiedenheft, Regional Fisheries Manager, Montana Fish, Wildlife, & Parks (FWP), and Wade A. Wetzel. He explained that SB 221 is an act to allow spear fishing of salmon and lake trout in the Fort Peck reservoir during certain times. The Regional Manager at Fort Peck is okay with this bill.

EXHIBIT(fis38a01)

EXHIBIT(fis38a02)

Proponents' Testimony:

Larry Peterman, Chief of Field Operations, Montana FWP, read his written testimony in support of SB 221. He also referred to the chart he distributed regarding the fishing district regulations between the western, central, and eastern districts of Montana.

EXHIBIT(fis38a03)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

SEN. KITZENBERG closed on SB 221, stating that this bill is necessary for the biological balance of the reservoir.

HEARING ON SJR 16

Sponsor: SEN. MIKE SPRAGUE, SD 6, Billings

Opening Statement by Sponsor:

SEN. SPRAGUE opened and asked Mary Vandenbosch, Legislative Branch, to explain SJR 16. Ms. Vandenbosch said that the resolution is basically to alter the rules and regulations for

"taking" endangered species, and the definition for "harass". She said the "meat" of the Resolution is on Page 2, allowing reasonable effort by property owners against carnivores listed as endangered. It also urges the Attorney General to join in the lawsuit defending Montana citizens to protect their lives and property against carnivores listed as endangered. She explained the amendments (Exhibit 4), that include endangered or threatened species.

EXHIBIT(fis38a04)

{Tape: 1, SJR 16; Side: A; Approx. Time Counter: 0 - 5}

Proponents' Testimony:

Jeff Hagener, Director, Montana FWP, read his written testimony in support of the resolution.

EXHIBIT(fis38a05)

Jake Cummins, Executive Vice President, Montana Farm Bureau Federation, Montana Stockgrowers' Association, agreed that this is a serious problem and that they support SJR 16.

{Tape: 1, SJR 16; Side: A; Approx. Time Counter: 5 - 7}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

SEN. SPRAGUE closed on SJR 16, stating that this is a Committee bill to address concerns about citizens defending themselves. This is in compliance with personal property rights in the Montana Constitution.

{Tape: 1, SJR 16; Side: A; Approx. Time Counter: 7 - 8.8}

EXECUTIVE ACTION ON SJR 16

Motion: SEN. BARKUS moved that SJR 16 DO PASS.

Motion/Vote: SEN. BALES moved that SJR 16 BE AMENDED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. BALES moved that SJR 16 DO PASS AS AMENDED.
Motion carried unanimously by voice vote.

{Tape: 1, SJR 16; Side: A; Approx. Time Counter: 8.8 - 9.7}

EXECUTIVE ACTION ON SB 221

Motion/Vote: SEN. MCGEE moved that SB 221 DO PASS. Motion
carried unanimously by voice vote.

{Tape: 1, SJR 16; Side: A; Approx. Time Counter: 9.7 - 10.1}

HEARING ON SB 336

Sponsor: SEN. DALE MAHLUM, SD 35, Missoula

Opening Statement by Sponsor:

SEN. MAHLUM said that this bill is to remove the state parks day-use fees for those with a Montana license plate. It adds an option on Page 6 of the bill, on cars and trucks; a person can ask to remove the \$4 fee. There is a \$1 million net funding to state parks a year.

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 0 - 1.6}

Proponents' Testimony:

Curly Anderson, Dillon, Tour Guide, Bannock, Lewis and Clark Trail, said that there are two places where Lewis and Clark actually stood. This bill will help develop that spot to encourage visitors.

Mike Penfold, Governor's State Park Futures Committee, Billings, explained that they reviewed the state parks personally and SB 336 would help a great deal.

Martha McDonald, Bannock Association, Dillon, supports SB 336.

Gene Townsend, Mayor, Three Forks, said this bill would have a significant fiscal impact on their city. They are hoping that the parks will bring visitors back again in the future.

Sue Dalbey, wife and mother, supports SB 336 and would love to pay \$4 to help preserve the state parks instead of paying a \$5 entrance fee every time they go to Black Sandy Beach.

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 1.6 - 6}

John Barrows, Dillon, Paper Publisher, said that he grew up in Glendive and state parks are an important aspect of Montana life.

Garth Hoagland, Beaverhead County Commissioner, stated that Bannock State Park is a destination park. Improvements are vital to the park; it is dangerous now. He said that he owns five trucks and would pay the \$4 fee for all of them. He supports this bill and commends the Parks Futures Commission.

Judy Siring, Beaverhead Chamber of Commerce, said that this is good for the economy. They support SB 336.

Mary Sexton, Chairman, Teton County Commission, explained that this is a way to achieve stable funding; they support this bill.

Amy Sullivan, Montana Tourism Coalition, said that the bed tax gives \$714,000 for parks; this bill would be a supplement.

Paul Hickman, Executive Director, Our Montana, Inc., Billings, read his written testimony in strong support of the bill.

EXHIBIT(fis38a06)

Ronda Carpenter, Cascade County Commissioners, Great Falls Area Chamber of Commerce, Montana County Treasurers' Association, stated that this bill is a great way to generate revenue without creating more work for the treasurers; FWP will collect the fee.

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 6 - 13}

Jeff Hagener, Director, Montana FWP, read his written testimony, explaining their support of SB 336.

EXHIBIT(fis38a07)

Jeff Teaberry, Montana Heritage Commission, read his testimony, stating that SB 336 is an investment on Montana's assets.

EXHIBIT(fis38a08)

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 13 - 17.8}

Arnie Olson, Director, Montana Historical Society, said that they support funding for their sister agency, and also support the provision that gives a portion to Nevada and Virginia Cities.

Howard Bogus, Crow-American Indian, representing Chief Plenty Coups State Park, Billings, explained their strong support for this bill. This bill would fulfil Chief Plenty Coups's vision.

Harold Silkwood, Billings resident and user of state parks, encouraged the Committee to support this bill.

Bill Carey, Missoula County Commissioner, had his written testimony included in support of SB 336.

EXHIBIT(fis38a09)

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 18 - 20}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. TASH inquired of any contingency language on the bill. **Jeff Hagener** assured him that this is a sound method.

SEN. BARKUS asked if there will be a sticker on the license plate. **Doug Monger, Administrator, Parks Division, Montana FWP,** said that there will not be a sticker. The fine will be part of registration; the person will be charged \$4 unless they sign a waiver stating that he will not use the state parks.

SEN. BARKUS then asked if there will be a warden to see registration. **Doug Monger** said the Montana public will be allowed free access to state parks. **SEN. BARKUS** wondered about out-of-state visitors. **Doug Monger** replied that the same system they now use will apply in that situation.

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 20 - 23.3}

SEN. BALES asked if this will require less personnel. **Doug Monger** said that current personnel will be redirected to maintenance activities. He added that they have no problem collecting the fees from nonresident guests.

SEN. TASH had a question regarding the Iron Ranger. **Doug Monger** said that it is a tube in the ground that people put money into.

SEN. SPRAGUE asked about how this new plan plays into the grand scheme of the parks system. **Doug Monger** explained that SB 336 is

dedicated specifically to the 42 state parks in Montana; the decal fees go to support the 320 fishing access sites.

SEN. SPRAGUE wondered about the Parks Futures Committee. **Jeff Hagener** said that FWP supports a broader funding mechanism to make it cheaper for each individual.

{Tape: 1, SB 336; Side: A; Approx. Time Counter: 23.3 - 28.7}

Closing by Sponsor:

SEN. MAHLUM closed on SB 336, thanking those who came to testify. He explained that this bill will benefit our children and our children's children. He said that what makes a good state park is repairs on buildings and improvements.

{Tape: 1, SB 336; Side: B; Approx. Time Counter: 0 - 3.2}

EXECUTIVE ACTION ON SB 336

Motion/Vote: **SEN. TASH** moved that SB 336 DO PASS. Motion carried unanimously by voice vote.

{Tape: 1, SB 336; Side: B; Approx. Time Counter: 3 - 4.5}

HEARING ON SB 403

Sponsor: **SEN. GREG BARKUS**, SD 39, Kalispell

Opening Statement by Sponsor:

SEN. BARKUS said that this is a simple bill regarding nonresident hunters. He stated that this bill is a good representation of a citizen's good idea brought into a bill by a legislator. He went over a chart illustrating nonresident license allocation and the license fees, and that proposed changes (Exhibit 10). He stated that residents, outfitters, and FWP are not affected by this bill; nonresidents are only slightly affected.

EXHIBIT(fis38a10)

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 0 - 6}

Proponents' Testimony:

Bill Bahny, Real Estate Broker, said that his specialty is ranch sales. Ranchers have financial problems because costs have increased, while income has decreased. Montana is a recreation state; in order for a rancher to retire, he has to sell to a nonresident. This bill will help the ranchers do that.

Gary Frederick, Real Estate of Montana, Farm Ranch Broker, added his support for this bill and gave two examples of out-of-state ranchers who had to sell their ranch because they couldn't get a license.

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 6 - 9.2}

Opponents' Testimony:

Larry Copenhaver, Montana Wildlife Federation, read his written testimony explaining their opposition to SB 403 and an inappropriate precedence it would set.

EXHIBIT(fis38a11)

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 9.2 - 13.6}

Informational Testimony:

Jeff Hagener, Director, Montana FWP, read his informational testimony to the committee, referring to arguments they have heard supporting and opposing the bill.

EXHIBIT(fis38a12)

Questions from Committee Members and Responses:

SEN. SPRAGUE referred to a previous landowner bill, and asked if this bill requires that public access be granted. **Jeff Hagener** said that the bill does not. The qualifications are for the nonresident to own a minimum of 1,280 acres.

SEN. BALES wondered about how FWP will handle the drawings for restricted hunting areas. **Jeff Hagener** explained that it would not give them an automatic licence in permit areas.

SEN. BALES asked about addressing the issue of applying for permits and not receiving them. **Jeff Hagener** responded that there would be methods to address that, but there would be a lot of resistance.

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 13.6 - 18.7}

SEN. HANSEN had a question regarding the 1280-acre requirement.

SEN. BARKUS replied that it was a random number. **SEN. HANSEN** asked about Page 3, Lines 9-10. **SEN. BARKUS** replied that this bill applies to deeded property only.

SEN. TASH if one purpose of this bill is to flush elk out of the sanctuaries for public hunting. **Jeff Hagener** agreed that it might be one purpose.

SEN. TASH wondered if the affiliates of the Montana Wildlife Federation also oppose this bill. **Larry Copenhaver** said that they did not poll the members, but the Board of Directors discussed the merits of the bills and they chose to support or take no position on the bill.

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 18.7 - 22.6}

SEN. TROPILA asked if the landowner could get a license if he posts that his land cannot be hunted. **SEN. BARKUS** affirmed that he could.

SEN. TROPILA wondered how the game warden will check on that.

SEN. BARKUS said the warden will inquire and give a citation if they are in violation.

SEN. MCGEE said there are many checkerboard sections. **SEN. BARKUS** affirmed that if a person steps across the boundary, they are trespassing.

SEN. HANSEN had a concern with the 1280-acre requirement. **SEN. BALES** explained that the number is based on sections, and the unit of land that could be a huntable size of acreage.

{Tape: 1, SB 403; Side: A; Approx. Time Counter: 22.6 - 27}

Closing by Sponsor:

SEN. BARKUS closed on SB 403. He responded to concerns, stating that 1) there is no new category of license created; 2) nonresidents can buy a license; 3) owners can apply for a tag at the same price; 4) this bill opens up some public access.

{Tape: 1, SB 403; Side: B; Approx. Time Counter: 0 - 0.6}

EXECUTIVE ACTION ON SB 179

Motion: SEN. MCGEE moved that SB 179 DO PASS.

Discussion:

Mary Vandenbosch, Legislative Branch, distributed and explained the amendments to SB 179.

EXHIBIT(fis38a13)

{Tape: 1, SB 407; Side: B; Approx. Time Counter: 0.6 - 3.7}

SEN. SHEA added that the most compelling reason to pass this amendment is to clarify that the landowner is just one entity.

Motion/Vote: SEN. SPRAGUE moved that SB 179 BE AMENDED (Exhibit 13). Motion carried unanimously by voice vote.

Motion: SEN. SHEA moved that SB 179 DO PASS AS AMENDED.

Discussion:

SEN. SHEA reported on the discussion of the subcommittee and their concerns with the bill, specifically SEN. NELSON's concerns.

{Tape: 1, SB 407; Side: B; Approx. Time Counter: 3.7 - 7.3}

Substitute Motion: SEN. BARKUS moved that SB 179 BE INDEFINITELY POSTPONED.

Discussion:

SEN. BARKUS said that bird habitat is quickly disappearing, and this bill is stating that habitat is not important. He said that this program does not work.

Vote: Motion carried unanimously by voice vote.

{Tape: 1, SB 407; Side: B; Approx. Time Counter: 7.3 - 9.5}

EXECUTIVE ACTION ON SB 251

Motion: SEN. BALES moved that SB 251 DO PASS.

Motion: SEN. BALES moved that SB 251 BE AMENDED (25101.amv).

EXHIBIT(fis38a14)**Discussion:**

SEN. BALES said that this amendment cites the chapter and law, answering the question if this bill will affect all Montana Habitat funds.

SEN. SPRAGUE asked regarding section 87-1-242. **Mary Vandembosch** explained that when HB 526 was originally drafted, it allocated a certain amount of money from the sale of licenses to wildlife habitat. Over the years, that amount has decreased.

{Tape: 1, SB 251; Side: B; Approx. Time Counter: 9.5 - 13.7}

SEN. SPRAGUE had further questions regarding the funding and what the amendment does. **SEN. BARKUS** said that this bill aims to get back to the original intent of HB 526, passed 14 years ago.

SEN. TASH explained about some land that was purchased under a fee title. Land management is conspicuously absent. SB 251 is a good bill and makes it better for adjacent landowners.

SEN. MCGEE inquired about the cost per acre per fee. He estimated that it would be about \$380 an acre average fee. The cheapest way to go is by lease. He added that conservation easements are being used to lock up lands from public access.

{Tape: 1, SB 251; Side: B; Approx. Time Counter: 13.7 - 21}

Vote: Motion carried 7-3 with **SENS. TROPILA, SHEA, and SCHMIDT** voting no. **SENS. TROPILA and SHEA** voted by proxy.

Motion: **SEN. MAHLUM** moved that SB 251 DO PASS AS AMENDED.

Discussion:

SEN. BALES stated that this bill is improving habitat and providing access to hunters. He explained that the lease option for a private individual has never been implemented.

{Tape: 1, SB 251; Side: B; Approx. Time Counter: 21 - 24.5}

SEN. SPRAGUE referred to the comment that the cost per care keeps coming up, and asked if that was per year or per purchase price. **Jeff Hagener** responded that a conservation easement lasts for 99 years; it is sold at today's value, not the future price. **SEN. SPRAGUE** continued to discuss the easements with **Jeff Hagener**.

{Tape: 2, SB 251; Side: A; Approx. Time Counter: 0 - 7.9}

SEN. MCGEE asked if there are tax breaks for federal and state conservation easements. **Jeff Hagener** affirmed.

SEN. BARKUS inquired about the projects since 1988, and wondered why there hasn't been one since 2000. **Jeff Hagener** responded that they have done some substantial projects; they must be in the works, so they don't show up on the chart.

{Tape: 2, SB 251; Side: A; Approx. Time Counter: 7.9 - 10.7}

SEN. SPRAGUE and the Committee continued to discuss the options of leasing in further detail. **Jeff Hagener** explained that this is a habitat protection bill. They would still pursue leases, but this is a provision to protect the habitat.

{Tape: 2, SB 251; Side: A; Approx. Time Counter: 10.7 - 14.9}

SEN. MCGEE asked if the public has access when FWP enters into a conservation easement. **Jeff Hagener** said that they always do.

SEN. MCGEE stated that he understands the intent of the bill, but doesn't want to "hamstring" the FWP Department. He said that this is not a one-sided deal; landowners want tax credit.

SEN. BALES asked about a potential amendment to eliminate the fee title. **SEN. BARKUS** reminded the Committee of the opposition when the original HB 526 was presented. He agreed that FWP hasn't tried very hard to sell leases on the land.

{Tape: 2, SB 251; Side: A; Approx. Time Counter: 14.9 - 22.8}

SEN. SPRAGUE inquired of the interest in sending a letter to FWP to explain the Committee's desires of the Department.

Vote: Motion to pass as amended failed 2-8 with **SENS. HANSEN** and **BALES** voting aye by voice vote. **SENS. TROPILA** and **SHEA** voted by proxy.

Motion/Vote: **SEN. BALES** moved that SB 251 BE INDEFINITELY POSTPONED. Motion carried 8-2 with **SENS. HANSEN** and **BALES** voting no by voice vote. **SENS. TROPILA** and **SHEA** voted by proxy.

SEN. SPRAGUE discussed the letter to FWP with the Committee and made assignments as to who would draft the letter.

{Tape: 2, SB 251; Side: A; Approx. Time Counter: 22.8 - 28}

ADJOURNMENT

Adjournment: 5:40 P.M.

SEN. MIKE SPRAGUE, Chairman

REBECCA SATTLER, Transcriptionist

MS/RS

EXHIBIT (fis38aad)